

Order

Michigan Supreme Court
Lansing, Michigan

April 7, 2006

127273 & (72)

JAMES W. ZERRENNER,
Plaintiff-Appellant,
Cross-Appellee,

v

BONNIE S. ZERRENNER,
Defendant-Appellee,
Cross-Appellant.

Clifford W. Taylor,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

SC: 127273
COA: 246321
Kent CC: 97-010967-DO

By order of July 14, 2005, the application for leave to appeal the August 10, 2004 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant were held in abeyance pending the decision in *Deyo v Deyo* (Docket No. 126795). On order of the Court, the decision having been issued on December 15, 2005, 474 Mich 952 (2005), the application is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals. We do not agree with the Court of Appeals that defendant has an equitable claim of restitution based on uncompensated services performed for plaintiff's law firm. Plaintiff's law firm was a separate asset, not a marital asset, which did not appreciate in value during the time of the parties' marriage as required by MCL 552.401. Because plaintiff's law firm was not a marital asset, *Postema v Postema*, 189 Mich App 89 (1991), and similar cases on which the Court of Appeals relied cannot justify defendant's claim to equitable restitution. In all other respects, the application for leave to appeal is DENIED. The application for leave to appeal as cross-appellant is also considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

WEAVER, J., states as follows:

I would deny leave to appeal as I would not peremptorily reverse this case.



t0404

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 7, 2006

Corbin R. Davis

Clerk